



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/525,002	03/14/2000	Dietmar Przytulla	2511-091	8191

20582 7590 04/02/2002

PENNIE & EDMONDS LLP  
1667 K STREET NW  
SUITE 1000  
WASHINGTON, DC 20006

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
----------	--------------

3727

DATE MAILED: 04/02/2002

16

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/525,002

Applicant(s)

PRZYTULLA, DIETMAR

Examiner

Stephen J. Castellano

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 2 is/are allowed.
- 6) ☒ Claim(s) 3-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3727

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-14 and 16-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Fehres et al. (Fehres).

Fehres discloses an open top barrel, blow molded lidded barrel or open top plastic drum, the container including a container body, a cover and a retaining ring, the container body having a closed bottom, and upwardly extending side wall and a chime portion which receives the cover, the chime portion including a first portion (first chime wall) extending radially away from the body, a second portion (second chime wall) extending upwardly from the first portion and an exterior circumferential rib projecting radially outwardly beyond an outward extent of the first and second portions (in the Jepson type claims, claims 3, 4, 18, 19 and their dependents, the improvement is the rib).

For claims 3, 4, 5, 10, 18 and 19, the inner edge of the first portion is defined such that the inner edge extends inwardly of the entire second portion.

For claims 18 and 19, the second portion is defined such that the second portion's outward extent is inward of an upper surface and a lower surface of the rib.

For claims 20-23, portion 6 of Fehres' lid is defined as the downwardly extending ring flange. When the lid is in a closed position, the downwardly extending ring flange is radially inwardly of and extends below an upper level of the collective body portion represented by the entire first portion, the entire second portion and the entire rib.

Art Unit: 3727

Claims 3 and 18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hammes et al. ('943)(Hammes).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fehres in view of Hammes.

Fehres discloses the invention except for the top surface of the rib being substantially parallel to the rib's bottom surface. Hammes teaches a rib wherein the top surface is substantially parallel to the bottom surface. It would have been obvious to modify the rib's shape to have a top surface substantially parallel to the bottom surface in order to provide a shape or contour which corresponds to the shape defined by the peripheral chime receiving member of the lid (which in Hammes is substantially horizontal and flat).

Claims 4 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammes.

Hammes discloses the invention except for a second portion, which defines an uppermost surface of the upper barrel edge, with an inner edge of the first portion extending radially inward of the entire second portion. It would have been obvious to remove portions of the upper barrel edge which extend upwardly of the second portion so that the second portion defines the uppermost surface of the upper barrel edge if such portion are deemed to be unnecessary. The portions which extend upwardly of the second portion (that is, portion 5) are not necessary

Art Unit: 3727

because the lid continues to be held upon the container body by retaining ring (4) and the elimination of portion 5 would save plastic molding materials.

Note that the inner edge of the first portion is defined such that the inner edge extends inwardly of the entire second portion.

Claims 1 and 2 are allowed.

Applicant's arguments with respect to claims 3-23 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9302. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the

Art Unit: 3727

examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner

Any inquiry concerning this communication of earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is (703) 308-1035.

  
Stephen Castellano  
Primary Examiner  
Art Unit 3727

March 28, 2002